Calendar No. 2469

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2435

TEMPORARY SUSPENSION OF DUTY ON CERTAIN ALUMINA

JULY 9, 1956.—Ordered to be printed

Mr. KERR, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 10269]

The Committee on Finance, to whom was referred the bill (H. R. 10269) to provide for the temporary suspension of the duty on certain alumina, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of H. R. 10269 is to suspend for 2 years the existing import duty on alumina under paragraph 6 of the Tariff Act of 1930, as amended, when such alumina is imported for use in producing aluminum, under regulations prescribed by the Secretary of the Treasury.

GENERAL STATEMENT

The bulk of the alumina consumed in the United States is used for the production of aluminum. For the period from 1952 through 1955 approximately 95 percent of all domestically produced alumina consumed was reduced to metal. The production of aluminum involves two main operations: the production of alumina from the crude ore—almost entirely bauxite—and the production of aluminum metal from alumina. A large part of the domestic production of aluminum in recent years has been derived from imported aluminum-bearing materials, and your committee is informed that this will continue to be the case in future years. The aluminum-bearing material has so far been imported almost entirely in the form of bauxite.

Under present law alumina is subject to duty under the provision for "refined bauxite" in paragraph 6 of the Tariff Act of 1930, as modified. Paragraph 6 originally provided for a rate of one-half cent per pound on refined bauxite. Pursuant to a concession granted

in the General Agreement on Tariffs and Trade, effective January 1, 1948, the rate was reduced to one-fourth cent per pound, which is the rate currently in effect.

United States imports of alumina are small when compared with domestic production. In 1955, imports were one-tenth of 1 percent of domestic production. They amounted to 7,058,000 pounds (3,529 short tons), valued at $321,000, and came principally from Canada. The 1955 imports were the largest since 1943 when 27,713,000 pounds (13,807 short tons), valued at $1,108,000, were imported, most of which was duty-free for Government use.

The Director of the Office of Defense Mobilization has reported that aluminum facilities are being expanded for defense purposes and that domestic alumina productive capacity will not be adequate to satisfy requirements. He has stated further that if favorable action is taken with respect to the temporary free importation of alumina he will maintain close surveillance of alumina imports to determine whether there is any threat to our mobilization base as a result of the suspension.

Under these conditions and because of the importance of an adequate supply of alumina the Finance Committee urges the adoption of the bill.

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Calendar No. 2470

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2436

TAXATION OF LIFE-INSURANCE COMPANIES

JULY 9, 1956.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 11995]

The Committee on Finance, to whom was referred the bill (H. R. 11995) to provide that the 1955 formula for taxing income of life-insurance companies shall also apply to taxable years beginning in 1956, having considered the same, report favorably thereon without amendment, and recommend that the bill do pass.

PURPOSE

The bill would amend the Internal Revenue Code of 1954 by applying the tax imposed by section 802 on the income of life insurance companies to taxable years beginning in 1956. Under present law this section imposes the tax only for taxable years beginning in 1955.

REASON FOR THE BILL

When the bill, H. R. 7201 (Public Law 429 of the 84th Cong.), which provided the tax formula for 1955, was considered by your committee last year, the Secretary of the Treasury endorsed the bill as a 1-year stopgap with the understanding that the Department of the Treasury would submit a recommendation for permanent legislation during this Congress. It is now apparent that the Treasury will not be able to offer a definite legislative alternative in this session of the Congress. If such an alternative were submitted, it would require careful study, including public hearings, and it would not be possible to adequately consider a major revision in the life insurance company income tax formula either during the remainder of this session or prior to March 15, 1957.

It is clear, therefore, that since the Treasury Department's alternative will not be available as a possible method of taxation for this year, legislation is needed at this time. Present law, while providing a special tax formula for the year 1955 provided that the tax for 1956

would revert to prior law, specifically, to the formula enacted in 1942 and now contained in sections 811, 812, and 813 of the Internal Revenue Code of 1954. While the 1942 formula would increase the revenue to be collected from life insurance companies, it would involve a shift of tax burden among the companies.

In general, the formula contained in Public Law 429 has been recognized as an improvement over previous temporary formulas and it should be extended for the year 1956. By the end of this calendar year companies must declare dividends to be paid in 1957. Considerable difficulty was involved at the end of last year, in the absence of a positive tax formula when the companies were in the position of not knowing what their tax liability would be.

EXPLANATION OF THE BILL

Section 802 (a) of the Internal Revenue Code of 1954 imposes a tax on the income of life insurance companies for taxable years beginning in 1955. Section 802 (c) imposes, also for taxable years beginning in 1955, an alternative tax on certain life insurance companies having nonlife insurance business. Your committee's bill would amend subsections (a) and (c) of section 802 by inserting "1955 or 1956" in place of "1955".

Section 811 imposes tax under a different formula for taxable years beginning after December 31, 1955. This date is amended to December 31, 1956.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1954

* * * * * *

Subchapter L. Insurance Companies

PART I—LIFE INSURANCE COMPANIES

Subpart A. 1955 formula.
Subpart B. 1942 formula.
Subpart C. Miscellaneous provisions.

Subpart A—1955 Formula

Sec. 801. Definition of life insurance company.
[Sec. 802. Tax imposed for 1955.]
Sec. 802. Tax imposed for 1955 and 1956.
Sec. 803. Income and deductions.
Sec. 804. Reserve and other policy liability deduction.
Sec. 805. Special interest deduction.

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SEC. 802. TAX IMPOSED FOR 1955 *AND 1956.*

(a) TAX IMPOSED.—A tax is hereby imposed for each taxable year beginning in 1955 *or 1956* on the income of every life insruance com-

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pany. Except as provided in subsection (c), such tax shall consist of a normal tax (computed under section 11 (b)) and a surtax (computed under section 11 (c)) on the sum of—

(1) the life insurance taxable income (as defined in subsection (b), plus

(2) the non-life insurance taxable income (as defined in subsection (f).

(b) LIFE INSURANCE TAXABLE INCOME DEFINED.—For purposes of this subpart, the term "life insurance taxable income" means the net investment income (as defined in section 803 (c)), minus the sum of—

(1) the net investment income allocable to non-life insurance reserves (determined under section 804 (d)),

(2) the reserve and other policy liability deduction (determined under section 804), and

(3) the special interest deduction, if any, allowed by section 805.

(c) ALTERNATIVE TAX IN THE CASE OF COMPANIES HAVING NON-LIFE INSURANCE RESERVES.—

(1) IN GENERAL.—In the case of a life insurance company which has non-life insurance reserves, the tax imposed by subsection (a) of this section for any taxable year beginning in 1955 *or 1956* shall be the tax computed under such subsection (or under section 1201 (a) if applicable) or the tax computed under paragraph (2) of this subsection, whichever is the greater.

(2) ALTERNATIVE 1 PERCENT TAX ON NON-LIFE INSURANCE BUSINESS.—The tax referred to in paragraph (1) is a tax equal to the sum of the following:

(A) A partial tax consisting of a normal tax (computed under section 11 (b)) and a surtax (computed under section 11 (c)) on the life insurance taxable income.

(B) A partial tax consisting of—

(i) 1 percent of the amount which bears the same ratio to the gross investment income (reduced by the deduction for wholly-exempt interest allowed by section 803 (c) (1) as the non-life insurance reserves bear to the qualified reserves (determined under section 804 (c)), plus

(ii) 1 percent of the excess of the amount by which the net premiums on contracts meeting the requirements of section 804 (d) (2) (A) exceed the dividends to policyholders on such contracts. For purposes of this clause, net premiums, and dividends to policyholders, shall be computed in the manner provided in section 823.

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SUBPART B—1942 FORMULA

Sec. 811. Tax imposed.
Sec. 812. Reserve and other policy liability deduction.
Sec. 813. Adjustment for certain reserves.

SEC. 811. TAX IMPOSED.

(a) TAX IMPOSED.—A tax is hereby imposed, on the life insurance company taxable income of every life insurance company, for each taxable year beginning after [December 31, 1955] *December 31, 1956*. Such tax shall consist of—

"(1) a normal tax on such income computed under section 11 (b), and

"(2) a surtax on such income computed under section 11 (c).

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Calendar No. 2471

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2437

AMENDING CERTAIN PROVISIONS OF LAW RELATING TO THE ESTATE TAX

JULY 9, 1956.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 6595]

The Committee on Finance, to whom was referred the bill (H. R. 6595) to amend certain provisions of law relating to the estate tax, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, lines 4 and 5, strike out "November 11, 1935, and before January 30, 1940" and insert in lieu thereof "February 10, 1939".

Page 1, lines 10, 11, and 12, strike "or from the application of the first sentence of section 207 (b) of the Technical Changes Act of 1953 (67 Stat. 615; Public Law 287, Eighty-third Congress),".

Page 2, line 1, strike "presented" and insert in lieu thereof "prevented".

Page 2, lines 15, 16, and 17, strike", or from the application of the first sentence of section 207 (b) of the Technical Changes Act of 1953".

PURPOSE OF BILL

This bill, as amended by your committee, provides that in the case of certain transfers of property described in the so-called Technical Changes Act of 1949, by persons who died after February 10, 1939, refund or credit of any overpayment of estate tax may be made if it was prevented on October 25, 1949, by any law or rule of law (other than a closing agreement or compromise), and if a claim is filed within 1 year from the date of the enactment of this bill.

GENERAL STATEMENT

The Supreme Court in 1949 held that the retention of a life estate from property transferred without the retention of a reversionary interest came under the provision relating to intention to take effect

in possession or enjoyment at or after death and was sufficient to require the property to be included in the gross estate of the decedent. (See *Commissioner* v. *Estate of Church*, 335 U. S. 632 (1949).) The Supreme Court also held in the case of *Estate of Spiegel et al* v. *Commissioner* (335 U. S. 701 (1949)), that the retention of an extremely remote reversionary interest by operation of law was sufficient to require the property to be included in the gross estate of the decedent.

In the so-called Technical Changes Act of 1949 Congress provided certain relief from the effects of the Church and Spiegel cases. This act excluded from the gross estate all transfers made before October 8, 1949, with retained reversionary interests where such interest arose by operation of law or had a value immediately before the decedent's death of less than 5 percent of the value of the transferred property. It also excluded from the estate of all decedents dying before 1950 (subsequently made applicable to all decedents dying after 1950) all transfers with retained life estates made before March 4, 1931 (and under certain circumstances before June 7, 1932). The act permitted refunds in cases barred by the statute of limitations or by court decision where a reversionary interest alone was involved, but did not provide for reopening cases involving a retained life estate which had become barred prior to the date of enactment of the act. Public Law 761 of the 81st Congress amended this act to reopen cases that were not barred on January 16, 1949, the date of the decision in the Church case.

EXPLANATION OF BILL

This bill reopens estate-tax cases of persons dying after February 10, 1939, the effective date of the 1939 code, if refund or credit was prevented on October 25, 1949 (the date of the enactment of the Technical Changes Act of 1949) by any law or rule of law other than a closing agreement or compromise. Your committee's bill is the same as that which passed the House, except that the House bill applied to persons dying after November 11, 1935, and before January 30, 1949; whereas, your committee's bill applies only to persons dying after February 10, 1939, the effective date of the 1939 code. The treatment accorded under this bill is consistent with the rule adopted in the Technical Changes Act of 1949 granting refunds in closed cases of decedents dying after the enactment of the 1939 code where the decedent retained only a reversionary interest having a value of less than 5 percent in the property transferred. This bill will allow refunds in cases where there was also a life estate retained and the reversionary interest had a value of less than 5 percent immediately before the decedent's death.

In some instances the exclusion of the transfer from the gross estate of the decedent may increase other taxes although it will decrease the estate tax of the transferor. For example, if the residuary legatee of the transferor made a gift expressed as a percent of his legacy, the value of the gift would be reduced by the fact that the estate tax on the transfers in trust with a retained life estate would be paid from the residuum. If he paid a gift tax on the assumption that the transfers in trust were not includible in the gross estate, he would properly have been given a refund of this gift tax when it was determined the transfers in trust were subject to the estate tax. Thus, the gift tax on such a

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gift would be decreased by the inclusion of the trust in the gross estate while the estate tax would be increased. Therefore, in determining the amount of the refund under this bill, it is required that the amount of the overpayment of estate tax be reduced by the amount of any gift tax refunded (together with interest paid thereon) by the United States by reason of the inclusion in the gross estate of the property causing the overpayment of the estate tax.

No interest is to be allowed or paid on any overpayment resulting from the application of this bill.

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Calendar No. 2472

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2438

AMENDING THE INTERNAL REVENUE CODES OF 1939 AND 1954

JULY 9, 1956.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 9083]

The Committee on Finance, to whom was referred the bill (H. R. 9083) to amend the Internal Revenue Code of 1954 to extend the period for amortization of grain-storage facilities, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) section 169 of the Internal Revenue Code of 1954 (relating to amortization of grain-storage facilities) is amended—

(1) by striking out in subsection (d) thereof "December 31, 1956," wherever appearing therein, and inserting in lieu thereof "December 31, 1958"; and

(2) by adding at the end thereof the following new subsection:

"(h) CROSS REFERENCE.—

"For special rule with respect to gain derived from the sale or exchange of property the adjusted basis of which is determined with regard to this section, see section 1238."

(b) Section 1238 of such Code (relating to amortization in excess of depreciation) is amended by inserting after "section 168 (relating to amortization deduction of emergency facilities)" the following: "or section 169 (relating to amortization deduction of grain-storage facilities)."

(c) The amendment made by subsection (b) shall apply only with respect to sales or exchanges of property on or after the date of the enactment of this Act.

SEC. 2. Section 172 (f) of the Internal Revenue Code of 1954 (relating to net operating loss deduction) is hereby amended by adding at the end thereof the following new paragraph:

"(3) The net operating loss deduction shall be, in lieu of the amount specified in section 122 (c) of the Internal Revenue Code of 1939, the sum of—

"(A) that portion of the net operating loss deduction for such year, computed as if subsection (a) of this section were applicable to the taxable year, which the number of days in the taxable year after December 31, 1953 bears to the total number of days in such year, and

"(B) that portion of the net operating loss deduction for the taxable year, computed under section 122 (c) of the Internal Revenue Code of

1939 as if this paragraph had not been enacted, which the number of days in the taxable year before January 1, 1954, bears to the total number of days in such year.

A corresponding pro rata computation (notwithstanding subsection (e)) shall also be made in determining the adjustments to the taxable income of such taxable year for the purposes of the second sentence of subsection (b) (2)."

SEC. 3. (a) Section 1234 of the Internal Revenue Code of 1954 (relating to options to buy or sell) is amended by striking out "a privilege or option to buy or sell property" and inserting in lieu thereof "a privilege or option, acquired after February 28, 1954, to buy or sell property."

(b) The amendment made by subsection (a) shall be effective as if enacted as an original part of the Internal Revenue Code of 1954.

SEC. 4. Section 1321 of the Internal Revenue Code of 1954 (relating to inventory liquidation of LIFO inventories) is amended by striking out "January 1, 1956" and inserting in lieu thereof "January 1, 1957".

SEC. 5. (a) Section 4272 of the Internal Revenue Code of 1954 (relating to exemptions from the tax on the transportation of property) is amended by adding at the end thereof the following new subsection:

"(f) FARM COMMODITIES.—The tax imposed by section 4271 shall not apply to amounts paid for the transportation by or for the owner, tenant, or operator of a farm of an agricultural commodity (including livestock and poultry) in continuous movement from the farm on which such commodity was produced to a processing or distributing plant located within the local marketing area for such commodity."

(b) Section 3475 of the Internal Revenue Code of 1939 (relating to the tax on the transportation of property) is amended by adding at the end thereof the following new subsection:

"(f) FARM COMMODITIES.—The tax imposed by this section shall not apply to amounts paid by or for the owner, tenant, or operator of a farm for the transportation of an agricultural commodity (including livestock and poultry) in continuous movement from the farm on which such commodity was produced to a processing or distributing plant located within the local marketing area for such commodity."

(c) (1) The amendment made by subsection (a) shall apply with respect to amounts paid after December 31, 1954. The amendment made by subsection (b) shall apply with respect to amounts paid after November 30, 1942, for transportation which begins after such date.

(2) No interest shall be allowed or paid in respect of any overpayment of tax resulting from the amendments made by this section.

Amend the title so as to read:

An Act to amend the Internal Revenue Code of 1954 to extend the period within which grain-storage facilities may be constructed in order to qualify for rapid amortization, and for other purposes.

SECTION 1. AMORTIZATION OF GRAIN-STORAGE FACILITIES

Subsection (a) of section 1 of this bill, which was adopted by your committee, extends the benefit of the 5-year amortization period to grain-storage facilities constructed or adapted after December 31, 1956, and before January 1, 1959. Except for the addition of the cross reference to section 1238 of the 1954 Code, this subsection corresponds to the bill as it passed the House.

Section 169 of existing law allows the cost of the construction of grain-storage facilities, or the cost of adapting existing facilities to the storage of grain, to be deducted, for income tax purposes, over a period of 60 months beginning with the month following the month in which the facility was completed or adapted, or with the succeeding taxable year. However, this relief is granted only where the construction or adaptation occurred after December 31, 1952, and before January 1, 1957. Since the shortage of facilities for the storing of grain is still acute, your committee believes, as did the House Ways and Means Committee, that it is desirable to extend the period for construction

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of grain-storage facilities or the adaptation of existing buildings for the storage of grain. Accordingly, the period in which such construction or adaptation can be made is extended from December 31, 1956, to January 1, 1959, so that such construction or adaptation can receive the benefit of the 5-year writeoff now allowed under existing law. It is believed that the extension will be of special benefit to the farmer who needs grain-storage facilities.

Subsections (b) and (c) of section 1 of this bill, which were added by your committee, amend section 1238 of existing law to provide that gain from the sale or exchange of a grain-storage facility occurring on or after the date of enactment of this bill shall be considered as ordinary income to the extent that the gain represents the excess of the amortization allowed under section 169 of the 1954 Code over depreciation otherwise allowable with respect to such facility. Presently, under section 1238 of the 1954 Code this rule is applicable to sales and exchanges of emergency facilities the cost of which also may be written off over a 5-year period. Your committee has extended this provision to sales of grain-storage facilities at the request of the Treasury Department in order that sales and exchanges of both emergency facilities and grain-storage facilities receive the same tax treatment.

SECTION 2. NET OPERATING LOSS DEDUCTION IN THE CASE OF TAXABLE YEARS BEGINNING IN 1953 AND ENDING IN 1954

Section 2 of this bill, which was added by your committee, changes the effective date of the 1954 Code with respect to a net operating loss deduction for a year beginning in 1953 and ending in 1954 so as to parallel the treatment accorded the computation of a net operating loss which arises in such year.

Under your committee's amendment, the net operating loss deduction for a 1953–54 fiscal year would be computed under both the 1954 and 1939 Code rules. The amount of the net operating loss deduction allowed depends on the relative portions of the year which precede or are a part of the calendar year 1954. The effect of this section of the bill is to apply the 1954 Code rules to that part of the year beginning January 1, 1954, and to apply the 1939 Code rules to the part of the year preceding that date. Under existing law, the net operating loss deduction for the entire 1953–54 fiscal year is subject to the more severe economic income modifications of the 1939 Code, such as adjustments for percentage depletion, the dividends received deduction, and tax-exempt interest. No such adjustments will be made under this section of the bill to that part of the year falling in 1954, following the taxable income approach of the 1954 Code.

This provision also provides that there will be a similar pro rata computation of the adjustments to the 1953–54 fiscal year income in determining the unabsorbed amount of a net operating loss deduction which may be carried over to another year. It is anticipated that the Secretary of the Treasury or his delegate will implement this provision with regulations consistent with the purposes of this section of the bill, treating 1953–54 fiscal years as being subject in part to the 1939 Code rules and in part to the 1954 Code rules.

Under existing law, the present differences in rules between the computation of the net operating loss and the computation of the net

operating loss deduction produces some anomalous results. For example, under existing law the taxpayer may have a fiscal 1953–54 year which results in a net operating loss that may be carried over, but from the standpoint of a carryback of a 1956 loss to that year the computation required for the 1953–54 year may result in sufficient economic net income so as to absorb in whole or in part the 1954 loss. This would happen where the taxpayer had significant amounts of percentage depletion, dividends, or tax-exempt interest in the 1953–54 fiscal year. Contrary to the determination of a loss for that year certain modifications, such as that for percentage depletion, dividends received deduction, and tax-exempt interest are required in the computation of the net operating loss deduction. Your committee's amendment eliminates this anomaly by providing similar rules for both the net operating loss arising in a fiscal 1953–54 year and a net operating loss deduction resulting from losses carried to that year.

SECTION 3. OPTIONS TO BUY AND SELL

Section 3 of this bill, which was added by your committee, provides that section 1234 of the 1954 code (relating to options to buy or sell) is to apply only to options acquired after February 28, 1954.

Under the general provisions of the 1939 Code an option, like any other property right, was considered subject to the general capital-gains provisions. Hence, its sale may give rise to capital gain or loss where the holder was not in the business of dealing with such options. As to a loss resulting from the failure to exercise an option, section 117 (g) (2) of the 1939 Code provided that such loss was a short-term capital loss.

This area of the tax laws was changed by section 1234 of the 1954 Code which provided that the character of the transaction with respect to the option would be determined by reference to the character of the property to which the option related. Thus, options relating to noncapital assets would, if sold, give rise to ordinary gain or loss; and where a loss arose on the failure to exercise such an option, the loss would be treated as an ordinary loss. Likewise, options would be treated as capital assets where the property to which they relate is a capital asset. Both the House and Senate committee reports with respect to section 1234 of the 1954 Code stated that the new rules contained in that section would apply only to options acquired after February 28, 1954. However, section 1234 itself contained no such provision.

In order to carry out the express intent of the House and Senate committee reports under the 1954 Code, your committee has provided that section 1234 of the 1954 Code is to apply only to options acquired after February 28, 1954. This amendment shall be effective as if it had been enacted as part of the 1954 Code.

ONE-YEAR EXTENSION OF SECTION 4. REPLACEMENT PERIOD FOR LIFO INVENTORY

Section 4 of the bill, which was added by your committee, extends for 1 additional year the replacement period for inventories valued on the last-in, first-out (LIFO) basis which was liquidated involuntarily during the period of shortages resulting from the Korean war crisis.

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Under existing law, taxpayers had to replace their LIFO inventories in a year ending before January 1, 1956, in order to adjust their taxes in the year of liquidation under section 1321 of the 1954 Code and corresponding provisions of the 1939 Code. In view of the continuing shortages in certain commodities, such as in copper and nickel, your committee believes that it is proper to extend the replacement period 1 year to years ending before January 1, 1957.

This section of the bill follows recommendations made by Secretary of Commerce Weeks and Secretary of the Treasury Humphrey. Secretary Humphrey wrote the following letter on this matter to the chairman of you committee:

NOVEMBER 10, 1955.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
United States Senate, Washington, D. C.

MY DEAR SENATOR BYRD: I have received a letter from Secretary Weeks recommending an extension of the December 31, 1955, date in the tax law for the replacement of LIFO inventories which were liquidated through December 31, 1954, during the period of shortages resulting from the Korean crisis. Section 1321 of the Internal Revenue Code, which carries forward a similar provision of the 1939 code, provides for the adjustment of tax returns where such an inventory liquidation is followed by replacement of LIFO inventories prior to the end of this year. This provision is equitable and is the desirable economic result of avoiding artificial pressures for inventory replacement during periods of shortage. It is now apparent that shortages will continue on certain commodities through the remainder of this calendar year, and an extension of the replacement date would accordingly appear desirable.

Since it will, of course, be impossible to have any legislation before the end of this year, I am using this means of indicating at this time the position of the Treasury Department on the subject. I am taking the liberty of sending a copy of this letter to Senator Millikin, and I am sending a similar letter to Mr. Cooper, with a copy to Mr. Reed.

Sincerely yours,

GEORGE M. HUMPHREY,
Secretary of the Treasury.

SECTION 5. APPLICATION OF TAX ON TRANSPORTATION OF PROPERTY TO FARM COMMODITIES

Section 5 of this bill, which was added by your committee, provides that the tax on transportation of property imposed by the 1939 and 1954 Codes shall not apply to amounts paid by or for the owner, tenant, or operator of a farm for the transportation of an agricultural commodity (including livestock and poultry) from the farm where such commodity was raised to a processing or distributing plant located within the local marketing area of such commodity.

Up to the present time, in many cases no tax was collected on amounts paid for transportation of this type, but it is possible that under present law the Internal Revenue Service will now assess deficiencies on amounts paid in back years and require that the tax be collected on all amounts paid in the future. Under the provision adopted by your committee, amounts paid for the transportation of

agricultural commodities would be exempt if the transportation proceeds in a continuous movement from the farm where such commodity was raised to a processing or distributing plant located within the local marketing area of such commodity.

The exemption applies only if the transportation begins at the place where the agricultural commodity was raised and ends at the processing or distributing plant, and the commodity must be in "continuous movement" from the farm to the plant. Whether the commodity is in "continuous movement" is to be determined by standards similar to those prescribed by the regulations under the 1939 Code (and generally applicable under the 1954 Code) in determining whether transportation of property intended for export is exempt. (See Regulations 113, secs. 143.30 and 143.31.)

Under this provision the exemption for agricultural commodities is limited to the transportation from the farm to the marketing or processing plant, and it cannot apply in the case of transportation from, for example, the processing plant to the distributor. Also, the exemption will apply only if the processing or distributing plant is located in the local marketing area of the commodity transported. Such a plant is considered to be in the local marketing area of the farm on which the commodity is raised if such commodities produced in the area of such farm are ordinarily transported to such distributing or processing plants.

The amendment made by subsection (a) applies to all transportation of the type described to which the transportation tax on property imposed under the 1954 code applies. The amendment made by subsection (b) similarly applies to all transportation subject to tax imposed by the 1939 code. It is expected that very few refunds will be made pursuant to the changes made by this section, and, in any event, no interest will be allowed or paid in respect of any overpayment.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics, existing law in which no change is proposed is shown in roman):

THE INTERNAL REVENUE CODE OF 1939

* * * * * * *

SEC. 3475. TRANSPORTATION OF PROPERTY.

* * * * * * *

(f) FARM COMMODITIES.—The tax imposed by this section shall not apply to amounts paid by or for the owner, tenant, or operator of a farm for the transportation of an agricultural commodity (including livestock and poultry) in continuous movement from the farm on which such commodity was produced to a processing or distributing plant located within the local marketing area for such commodity.

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THE INTERNAL REVENUE CODE OF 1954

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Chapter 1—Normal Taxes and Surtaxes

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SUBCHAPTER B—COMPUTATION OF TAXABLE INCOME

* * * * * * *

Part VI—Itemized Deductions for Individuals and Corporations

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SEC. 169. AMORTIZATION OF GRAIN-STORAGE FACILITIES

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(d) DEFINITION OF GRAIN-STORAGE FACILITY.—For purposes of this section, the term "grain-storage facility" means—

(1) any corn crib, grain bin, or grain elevator, or any similar structure suitable primarily for the storage of grain, which crib, bin, elevator, or structure is intended by the taxpayer at the time of his election to be used for the storage of grain produced by him (or, if the election is made by a partnership, produced by the members thereof); and

(2) any public grain warehouse permanently equipped for receiving, elevating, conditioning, and loading out grain,

the construction, reconstruction, or erection of which was completed after December 31, 1952 and on or before [December 31, 1956] *December 31, 1958*. If any structure described in clause (1) or (2) of the preceding sentence is altered or remodeled so as to increase its capacity for the storage of grain, or if any structure is converted, through alteration or remodeling, into a structure so described, and if such alteration or remodeling was completed after December 31, 1952, and on or before [December 31, 1956] *December 31, 1958*, such alteration or remodeling shall be treated as the construction of a grain-storage facility. The term "grain-storage facility" shall include only property of a character which is subject to the allowance for depreciation provided in section 167. The term "grain-storage facility" shall not include any facility any part of which is an emergency facility within the meaning of section 168 of this title.

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(*h*) *CROSS REFERENCE.—*

For special rule with respect to gain derived from the sale or exchange of property the adjusted basis of which is determined with regard to this section, see section 1238.

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SEC. 172. NET OPERATING LOSS DEDUCTION.

* * * * * * *

(f) TAXABLE YEARS BEGINNING IN 1953 AND ENDING IN 1954.—

* * * * * * *

(3) The net operating loss deduction shall be, in lieu of the amount specified in section 122 (c) of the Internal Revenue Code of 1939, the sum of—

(A) that portion of the net operating loss deduction for such year, computed as if subsection (a) of this section were applicable to the taxable year, which the number of days in the taxable year after December 31, 1953 bears to the total number of days in such year, and

(B) that portion of the net operating loss deduction for the taxable year, computed under section 122 (c) of the Internal Revenue Code of 1939 as if this paragraph had not been enacted, which the number of days in the taxable year before January 1, 1954, bears to the total number of days in such year.

A corresponding pro rata computation (notwithstanding subsection (e)) shall also be made in determining the adjustments to the taxable income of such taxable year for the purposes of the second sentence of subsection (b) (2).

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SUBCHAPTER P—CAPITAL GAINS AND LOSSES

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Part IV—Special Rules for Determining Capital Gains and Losses

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SEC. 1234. OPTIONS TO BUY OR SELL.

Gain or loss attributable to the sale or exchange of, or loss on failure to exercise, [a privilege or option to buy or sell property] *a privilege or option, acquired after February 28, 1954, to buy or sell property* which in the hands of the taxpayer constitutes (or if acquired would constitute) a capital asset shall be considered gain or loss from the sale or exchange of a capital asset; and, if the loss is attributable to failure to exercise such privilege or option, the privilege or option shall be deemed to have been sold or exchanged on the day it expired. This section shall not apply to losses on failure to exercise options described in section 1233 (c).

* * * * * * *

SEC. 1238. AMORTIZATION IN EXCESS OF DEPRECIATION.

Gain from the sale or exchange of property, to the extent that the adjusted basis of such property is less than its adjusted basis determined without regard to section 168 (relating to amortization deduction of emergency facilities) *or section 169 (relating to amortization deduction of grain-storage facilities)*, shall be considered as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231.

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SUBCHAPTER Q—READJUSTMENT OF TAX BETWEEN YEARS AND SPECIAL LIMITATIONS

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Part III—Involuntary Liquidation and Replacement of LIFO Inventories

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SEC. 1321. INVOLUNTARY LIQUIDATION OF LIFO INVENTORIES.

(a) ADJUSTMENT OF TAXABLE INCOME AND RESULTING TAX.—If, for any taxable year ending after June 30, 1950, and before January 1, 1955, the closing inventory of a taxpayer inventorying goods under the method provided in section 22 (d) of the Internal Revenue Code of 1939 reflects a decrease from the opening inventory of such goods for such year, and if the taxpayer elects, at such time and in such manner and subject to such regulations as the Secretary or his delegate may prescribe, to have this section apply, and if it is established to the satisfaction of the Secretary or his delegate, in accordance with such regulations, that such decrease is attributable to the involuntary liquidation of such inventory as defined in section 22 (d) (6) (B) of the Internal Revenue Code of 1939 (as modified by subsection (b) of this section), and if the closing inventory of a subsequent taxable year, ending before [January 1, 1956] *January 1, 1957*, reflects a replacement, in whole or in part, of the goods so previously liquidated, then the taxable income of the taxpayer otherwise determined for the year of such involuntary liquidation shall be increased by an amount equal to the excess, if any, of the aggregate cost of such goods reflected in the opening inventory of the year of involuntary liquidation over the aggregate replacement cost, or decreased by an amount equal to the excess, if any, of the aggregate replacement cost of such goods over the aggregate cost thereof reflected in the opening inventory of the year of the involuntary liquidation. The taxes imposed by this chapter (and by chapters 1 and 2 of the Internal Revenue Code of 1939) for the year of such liquidation, for preceding taxable years, and for all taxable years intervening between the year of liquidation and the year of replacement shall be redetermined, giving effect to such adjustments. Any increase in such taxes resulting from such adjustments shall be assessed and collected as a deficiency but without interest, and any overpayment so resulting shall be credited or refunded to the taxpayer without interest.

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Chapter 33—Facilities and Services

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SUBCHAPTER C—TRANSPORTATION

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Part II—Property

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SEC. 4272. EXEMPTIONS.

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(f) FARM COMMODITIES.—The tax imposed by section 4271 shall not apply to amounts paid for the transportation by or for the owner, tenant, or operator of a farm of an agricultural commodity (including livestock and poultry) in continuous movement from the farm on which such commodity was produced to a processing or distributing plant located within the local marketing area for such commodity.

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Calendar No. 2473

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2439

PROVIDING FOR A JOINT COMMITTEE TO REPRESENT THE CONGRESS AT THE UNVEILING OF THE COMMODORE JOHN BARRY MEMORIAL AT WEXFORD, IRELAND

JULY 9, 1956.—Ordered to be printed

Mr. O'MAHONEY, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. Con. Res. 244]

The Committee on the Judiciary, to which was referred the resolution (H. Con. Res. 244) to provide for a joint committee of the Congress to represent the Congress at the unveiling of the Commodore John Barry Memorial at Wexford, Ireland, on September 16, 1956, having considered the same, reports favorably thereon without amendment and recommends that the resolution be agreed to.

PURPOSE

The purpose of the concurrent resolution is to create a committee to represent the Congress at the ceremonies in connection with the unveiling of the statue of Commodore John Barry to be presented by the President of the United States to Ireland on behalf of the people of the United States at Wexford, Ireland, on September 16, 1956.

STATEMENT

This proposed legislation would create a joint committee of the Congress, to be composed of 6 Members of the House of Representatives to be appointed by the Speaker of the House and 6 Members of the Senate to be appointed by the President of the Senate, to represent the Congress at the ceremonies in connection with the unveiling of the statue of Commodore John Barry to be presented by the President of the United States to Ireland on behalf of the people of the United States at Wexford, Ireland, on September 16, 1956.

The expenses of the joint committee in carrying out the purposes of this resolution shall not exceed $25,000 and shall be paid out of the contingent fund of the House of Representatives.

John Barry, American naval officer, was born in Tacumshane, County Wexford, Ireland, in 1745. He emigrated to Philadelphia about 1760 and in 1776, during the American Revolution, was placed in command of the *Lexington* by the Continental Congress. He subsequently commanded, in turn, the *Effingham*, the *Raleigh* (which was captured in 1778, Barry escaping), and the *Alliance*, in which he carried Lafayette to France in 1781. During his service he fought a number of engagements and won several victories. In 1794 he became senior captain (with the courtesy title of commodore) of the United States Navy. During the quasi-war with France he commanded all United States ships in the West Indies.

The committee is of the opinion that this resolution should be favorably considered and that it would pay fitting tribute to one of the heroes of the American Revolution. Accordingly, the committee recommends favorable consideration of House Concurrent Resolution 244, without amendment.

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Calendar Nos. 2517, 2518, 2519, 2520

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2483

CONTROL OF NARCOTICS

JULY 9, 1956.—Ordered to be printed

Mr. GEORGE, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany Senate Resolutions 287, 288, 289, and 290]

The Committee on Foreign Relations, having had under consideration Senate Resolutions 287, 288, 289, and 290, dealing with the control of narcotic drugs, reports all resolutions favorably to the Senate (S. Res. 288 with amendments and S. Res. 290 with an amendment) and recommends that they be passed.

BACKGROUND OF RESOLUTIONS

The proposals contained in Senate Resolutions 287, 288, 289, and 290 are the outgrowth of a study of the illicit narcotics traffic conducted by a Subcommittee on Improvements in the Federal Criminal Code of the Senate Committee on the Judiciary, established pursuant to Senate Resolution 67 (84th Cong., 1st sess.). Members of the subcommittee are Senator Daniel, chairman, and Senators O'Mahoney, Eastland, Welker, and Butler. This subcommittee held extensive hearings in 1955 in Washington and in other cities in the United States, including San Antonio and Houston where the Mexican border situation was examined. In its preliminary report, issued on January 23, 1956 (S. Rept. 1440), the subcommittee stated that it was—

> surprised and shocked at the extent and far-reaching effect of the illicit drug traffic in the United States and [has] concluded that narcotic addiction and the dope traffic constitutes one of the most serious problems facing the Nation.

The four resolutions which the committee is reporting are all derived from recommendations made by the subcommittee in its preliminary report.

COMMITTEE ACTION

Senate Resolutions 287, 288, 289, and 290 were introduced in the Senate on June 14, 1956, by Senator Daniel (for himself and Senators Eastland, O'Mahoney, Welker, Butler, Wiley, and Mansfield) and referred to the Committee on Foreign Relations. The committee considered them in executive session on July 3, 1956, and voted, without objection, to report them favorably to the Senate, Senate Resolution 288 and Senate Resolution 290 with minor amendments.

SENATE RESOLUTION 287

At the present time the United Nations Narcotics Laboratory tests samples of opium seized in the illicit traffic, and reports the results of those tests only to the determined country of origin and to the country in which the drugs were seized. Senate Resolution 287 would strongly recommend that the results of all such tests be also communicated to the Commission on Narcotic Drugs of the United Nations, which has overall responsibility in the field of narcotics control.

Both the Department of State and the Treasury Department favor the adoption of Senate Resolution 287. (See appendix.) A letter to the chairman of the Foreign Relations Committee from Acting Secretary of the Treasury Kendall, dated June 25, 1956, stated that if the recommendation were accepted, it—

> would furnish valuable information to the Commission and would be of aid in its efforts to stop diversions to the illicit traffic of opium produced in such countries as Turkey, India, and others.

The Department of State also indicated its belief that it would be desirable to have these findings made available to the United Nations Commission on Narcotic Drugs.

The committee, in reporting this resolution favorably, believes that if the Commission is enabled to have the benefit of the knowledge of the source of opium seized in the illicit traffic, it will be better able to hit at the origin of supply and to exercise pressure to halt opium production at its source.

SENATE RESOLUTION 288

As Senate Resolution 288 points out, the drug heroin is the most dangerous of addicting narcotic drugs, the use of which is conducive to a tenacious type of drug addiction which wreaks havoc upon and slowly destroys human lives. Attention is also called in the resolution to the fact that the limited medical use formerly made of heroin can be met by other less dangerous drugs.

The 10th session of the United Nations Commission on Narcotic Drugs, which met in April and May 1955, adopted a resolution urging all governments which had not yet prohibited the use, manufacture, importation, and exportation of diacetylmorphine (heroin) to do so. However, certain countries still do not outlaw this drug. Because of the dangerous qualities of heroin and because of the reluctance of some nations to ban it, Senate Resolution 288 calls upon the United

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Nations to urge the governments of those countries which have not yet taken action to proscribe heroin to do so at the earliest possible moment.

Both the Treasury Department and the Department of State submitted favorable reports on this resolution. (See appendix.) The Department of State, in a letter to the chairman of the committee from Assistant Secretary Hill, dated June 25, 1956, suggested a change in the phraseology of the introductory language. The Department stated that—

> Because the exact legal status of heroin in all countries at any particular time is difficult to determine, it is suggested that a general phrase such as: "certain countries have not yet taken action to proscribe heroin" be substituted for the phrase "all except seven countries (Albania, Bahrein, Belgium, France, Hungary, Italy, and Paraguay) have taken action to proscribe heroin".

The committee accepted this suggestion and has amended Senate Resolution 288 to conform thereto.

The committee, in approving this resolution, believes that every possible effort should be made to urge all governments to stamp out this most evil of all drugs, heroin. The degradation which racks the minds and bodies of its users is a more than sufficient reason for a continued attack on this problem. And while it may not be possible to stop completely the illicit traffic in this drug, nonetheless the committee feels that if the goal of this resolution is achieved, much progress will be made toward making it extremely difficult for this under-the-table trade to flourish.

SENATE RESOLUTION 289

In Senate Resolution 289, the Senate expresses its concern at learning that drug addicts and convicted narcotic law violators, who are residents of the United States and Mexico, are constantly crossing the United States-Mexican boundary for the purpose of obtaining, using, and trafficking in narcotic drugs and marihuana. In the resolution is also indicated the belief of the Senate that addiction to narcotic drugs is represensible, and that continued agitation along the United States-Mexican boundary relative to the sale and purchase of narcotic drugs might adversely affect the cordial relations existing between Mexico and the United States.

Therefore, Senate Resolution 289 requests the President to commence negotiations with the Government of Mexico for the purpose of concluding a treaty which will result in a more effective control of the traffic in illicit narcotic drugs and marihuana, such negotiations to include methods for the prohibition of boundary crossings by users of such illicit narcotic drugs, users of marihuana, drug addicts, and convicted narcotic law violators of both nations. In addition, the negotiations would include provisions for the exchange of specialized personnel for the purpose of providing closer liaison between the United States and Mexico in the control of the traffic in such illicit narcotic drugs and marihuana.

In a letter to the chairman of the Foreign Relations Committee from the Acting Secretary of the Treasury, dated June 25, 1956 (see appendix), the Treasury Department expressed the view that—

> There is an extensive traffic in narcotic drugs and marihuana between Mexico and the United States. Although there is presently cooperative effort to diminish this traffic, it is believed that much benefit could be derived from an effective treaty arrangement. However, there may be foreign policy considerations which should be studied before action is taken on this resolution, and in these matters this Department defers to the views of the Department of State.

The Department of State, in a letter dated June 25, 1956, to the chairman from Assistant Secretary Hill (see appendix), raised various questions regarding this resolution. It felt that in the light of the splendid cooperation shown by Mexico, the proposal of a bilateral treaty on this subject might be resented by the Mexican Government. The Department was also concerned at the legal effect of using drug addiction as a basis for control of border crossings by United States citizens. In concluding its comments on this proposal, the State Department said that—

> it believes that increased Mexican cooperation * * * can be obtained upon demonstration of specific need in given instances without having to resort to the execution of a treaty, provided such cooperation does not affect the exercise of jurisdiction * * *.

The Committee on Foreign Relations believes that the Mexican Government is as interested in controlling this extensive traffic in narcotics at various border points as is the United States and that it might well welcome treaty negotiations to provide more effective control. With respect to the Department of State's concern at the legal problems involved in controlling border crossings, the committee observes that this resolution does no more than to suggest that "negotiations" should "include methods for the prohibition of boundary crossings" in connection with the control of this traffic. The committee believes that responsible negotiations between these two North American friends might well provide more effective control over this illicit traffic in narcotic drugs and marihuana which concerns them both.

SENATE RESOLUTION 290

On August 20, 1954, the United States Senate gave its advice and consent to ratification, by a vote of 71 to 0, of the 1953 Protocol Limiting Cultivation of the Poppy Plant and the International and Wholesale Trade in and Use of Opium (Ex. C, 83d Cong., 2d sess.). Under the terms of that protocol, it comes into force after at least 25 states (including at least 3 of the producing states and at least 3 of certain designated manufacturing states) have deposited their instruments of ratification or accession. Up to the present time only 18 states have ratified or acceded to the protocol. (To bring the resolution up to date, the committee amended the preamble to show

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18 states, rather than 15.) The report of the Subcommittee on Improvements in the Federal Criminal Code calls attention to the fact that—

> among those nations lagging in ratification are, significantly, the larger producers of opium, i. e., Turkey, Iran, and Mexico. Together with Lebanon and Red China, these countries are the primary sources of heroin which reaches the United States.

Senate Resolution 290 expresses the regret of the Senate that not enough countries have adhered to the protocol to bring it into force, and resolves that the United Nations should urge the governments of all countries which have not yet ratified or acceded to it (particularly the producing countries, Bulgaria, Greece, Iran, Turkey, Union of Soviet Socialist Republics, and Yugoslavia) to do so at the earliest possible moment.

The report of the Committee on Foreign Relations on the protocol (Ex. Rept. No. 7, 83d Cong., 2d sess.) stated that—

> No single nation has the capacity within itself to dry up the sources of supply around the world, or to prevent the sponsors of this criminal activity from shifting to new areas. An international cooperative system of curbs upon production seems to be the most promising means of suppressing the evil.
>
> It is the committee's opinion that the protocol constitutes a significant forward step, and that the goals for which it strives as well as the procedures conceived for that purpose are sound and in the essential interests of this country. For these reasons the Committee on Foreign Relations urges the Senate to give its advice and consent to the ratification of the protocol.

The committee still feels that this protocol constitutes a significant forward step, and considers that this resolution can serve to communicate the urgency with which the United States Senate views the entry into force of this treaty.

The second point which Senate Resolution 290 makes is that the Commission on Narcotic Drugs of the United Nations has spent about 6 years in an effort, unsuccessful thus far, to draft a single convention on narcotic drugs designed to modernize, codify, and replace conventions and protocols on this subject. In this connection, the resolution would urge the Commission and the governments of countries represented on that Commission to take appropriate steps to expedite the preparation of a final draft which may be acceptable as an improved international agreement to control more effectively the traffic in narcotic drugs.

The committee hopes that a single convention can be expeditiously attained, so that another forward step can be taken toward improved narcotics control.

CONCLUSIONS

Senate Resolutions 287, 288, 289, and 290 are all designed to afford better measures of control over narcotics. When the Committee on Foreign Relations considered these resolutions, it had in

mind that these were recommendations which were made after intent and careful study of the illicit narcotics traffic. Certainly, the fact that there are at least 60,000 addicts in this country today makes this problem a serious one for this Nation. Drug addiction is not only detrimental to the health and well-being of the addicted, but also is a forceful element in the commission of crime. This problem becomes international in scope since international cooperation is necessary in dealing effectively with the illicit dope traffic.

In the opinion of the committee, the Senate resolutions it is reporting seek objectives which would tend to curb the illicit dope traffic and to provide for more effective narcotics control. If these objectives can be achieved, the ruin of many of our citizens will be averted, and a vicious evil will be abated.

APPENDIX

Letters Received From the Department of State and the Treasury Department Concerning the Pending Resolutions

LETTERS CONCERNING SENATE RESOLUTION 287

Department of State,
Washington, June 25, 1956.

Hon. Walter F. George,
Chairman, Committee on Foreign Relations,
United States Senate.

Dear Senator George: Further reference is made to your letter of June 15, 1956, requesting the views of the Department on Senate Resolution 287, requesting that reports of results of tests of samples of opium seized in illicit traffic be communicated to the Commission on Narcotic Drugs of the United Nations.

The Department of State and the Bureau of Narcotics of the Treasury Department have taken the position that it would be desirable to have the results of these origin-determining analyses communicated not only to the country submitting the samples of seized opium but also to the United Nations Commission with overall responsibility in the field of narcotics control. Unfortunately, this position has not as yet found much support within the Commission. It is hoped, however, that as the validity of the laboratory findings becomes more widely recognized there will be less reluctance to make the results widely available. As you may know, analysis of opium to determine country of origin is a technique which has only recently been perfected.

The Department is not in a position to judge the extent to which the proposed resolution would be likely to gain support for the United States position. Should the resolution be adopted, the Department would of course be happy to transmit its text to the Secretary General of the United Nations.

Sincerely yours,

Robert C. Hill,
Assistant Secretary
(For the Secretary of State).

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TREASURY DEPARTMENT,
Washington, June 25, 1956.

Hon. WALTER F. GEORGE,
Chairman, Committee on Foreign Relations,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: There has been referred to the Department your letter of June 16, 1956, addressed to Mr. Anslinger, requesting views and comments on Senate Resolution 287.

Senate Resolution 287 is a resolution urging that the United Nations Narcotic Laboratory report results of tests of seized opium to the Commission on Narcotic Drugs of the United Nations as is presently reported to the country of origin and the country where the opium is seized. This would furnish valuable information to the Commission and would be of aid in its efforts to stop diversions to the illicit traffic of opium produced in such countries as Turkey, India, and others. The Department favors adoption of Senate Resolution 287.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

DAVID W. KENDALL,
Acting Secretary of the Treasury.

LETTERS CONCERNING SENATE RESOLUTION 288

DEPARTMENT OF STATE,
Washington, June 25, 1956.

Hon. WALTER F. GEORGE,
Chairman, Committee on Foreign Relations,
United States Senate.

DEAR SENATOR GEORGE: Further reference is made to your letter of June 15, 1956, requesting the comments of the Department of State on Senate Resolution 288, calling on the United Nations to urge the governments of those countries which have not proscribed heroin to do so.

I am sure that you are aware of the joint efforts of the Department and the Bureau of Narcotics of the Treasury Department to have the use, production, importation, and exportation of heroin banned. With the support of the United States, the 10th session of the United Nations Commission on Narcotic Drugs adopted a resolution urging all governments which had not yet prohibited the use, manufacture, importation, and exportation of diacetylmorphine to do so. This resolution went somewhat further than an earlier resolution of the 18th session of the Economic and Social Council which did not concern itself with the use of the drug but did urge all governments to prohibit the manufacture, importation, and exportation of diacetylmorphine and its salts, preparations, and preparations of its salts, except for scientific purposes. United States support for these resolutions is a reflection of our great concern over the introduction into our country of substantial quantities of this very dangerous drug.

The report of the recent 11th session of the Commission noted with satisfaction that the great majority of governments had either adopted a policy or taken measures to prohibit diacetylmorphine. According

to the report, four countries (Belgium, France, Monaco, and the Netherlands (expressly declared that they were not prepared, as yet, to implement the resolutions. Ten other countries apparently still continue to permit diacetylmorphine (Albania, Denmark, Ecuador, Hungary, Ireland, Paraguay, Rumania, Saudia Arabia, the United Kingdom, and Uruguay). It will be noted that this list differs from the countries listed in the proposed Senate resolution. Because the exact legal status of heroin in all countries at any particular time is difficult to determine, it is suggested that a general phrase such as: "certain countries have not yet taken action to proscribe heroin" be substituted for the phrase "all except seven countries (Albania, Bahrein, Belgium, France, Hungary, Italy, and Paraguay) have taken action to proscribe heroin".

It might be noted, incidentally, that Italy recently banned the manufacture, importation, and exportation of heroin, although the use of the drug is still permitted. It should be noted, too, that several of these countries, while agreeing that less dangerous substitutes for heroin are available, find it difficult, for constitutional or political reasons, to prohibit the drug entirely. In this connection, you are no doubt aware that the use of heroin is not legally prohibited in the United States although for all practical purposes its use in medical practice is almost unheard of.

If you should like additional information on any of the points raised by the proposed Senate resolution, the Department will be glad to assist you.

Sincerely yours,

ROBERT C. HILL,
Assistant Secretary
(For the Secretary of State).

TREASURY DEPARTMENT,
Washington, D. C., June 25, 1956.

Hon. WALTER F. GEORGE,
Chairman, Committee on Foreign Relations,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: There has been referred to the Department your letter of June 16, 1956, addressed to Mr. Anslinger, requesting views and comments on Senate Resolution 288.

Senate Resolution 288 is a resolution requesting the United Nations to urge the seven countries which have not yet taken action to proscribe heroin to do so at the earliest possible moment. Heroin is generally considered to be of no benefit to the medical profession. It is the most addicting narcotic drug and is the favorite of drug addicts. The Department favors the adoption of legislation which would provide greater control of heroin. However, it is understood that the Department of State has technical comments on the resolution to which this Department defers.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

DAVID W. KENDALL,
Acting Secretary of the Treasury.

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LETTERS CONCERNING SENATE RESOLUTION 289

DEPARTMENT OF STATE,
Washington, June 25, 1956.

HON. WALTER F. GEORGE,
Chairman, Committee on Foreign Relations,
United States Senate.

DEAR SENATOR GEORGE: Reference is made to your letter of June 15, 1956, requesting the comments of this Department on Senate Resolution 289, introduced by Senator Daniel (for himself and other Senators), providing for the commencement of negotiations with the Mexican Government on a treaty which will result in more effective control of the traffic in illicit narcotic drugs. The resolution calls for the inclusion of methods for the prohibition of boundary crossings by users of illicit narcotic drugs, drug addicts, and convicted narcotic law violators of both nations, and for the exchange of specialized personnel which will provide closer liaison between both nations in the control of illicit traffic in narcotic drugs and marihuana.

Given the splendid cooperation shown by the Mexican Government in efforts to control traffic in narcotic drugs both through action of the United Nations and through application of its own domestic laws, the Department believes that the proposal of a bilateral treaty with Mexico on this subject would be resented by the Mexican Government. The fact that Mexico would thus be singled out as a country which is unable to cope effectively with the problem of illicit traffic in narcotic drugs through its own efforts could not in the Department's opinion be reconciled with the recognition given Mexico from time to time by our own authorities entrusted with the problem for its outstanding activities in suppressing the illicit traffic within its own territory and across the frontier.

There are, in addition, some practical factors to be considered in connection with the proposal to prohibit boundary crossings by users of illicit narcotic drugs, drug addicts, and convicted narcotic law violators of both nations. Aside from the impracticability of making determinations of addiction to and use of illicit narcotic drugs in the circumstances in which border crossings are effected by United States citizens, there would seem to be serious question as to the constitutionality of such determinations as well as to the restriction of an individual's travel based on such findings. Since Mexico's constitutional provisions concerning the individual rights of its citizens approximate our own, the Department believes the proposal to Mexico of a treaty to include prohibition of boundary crossings on these grounds would not be proper. The entry into the United States of aliens of the classes mentioned is already prohibited by the terms of the Immigration and Nationality Act, and its enforcement is assured whenever is a showing that the alien is a member of that class.

Lastly, while the Department realizes that there may be serious narcotics problems on occasion at certain local areas along our borders requiring close liaison between the enforcement authorities of both nations, it believes that increased Mexican cooperation to deal with those cases can be obtained upon demonstration of specific need in given instances without having to resort to the execution of a treaty, provided such cooperation does not affect the exercise of jurisdiction. In these cases the Department is prepared to render every appropriate

assistance to our own enforcement authorities upon request. Furthermore, the United States Government has for the past several years maintained an officer in Mexico City who acts as liaison with the Mexican Government in these matters, and the Mexican Government presently has under consideration the project, to which we have agreed, of assigning a similar official to its Embassy in Washington for the same purposes.

Sincerely yours,

ROBERT C. HILL,
Assistant Secretary
(For the Secretary of State).

TREASURY DEPARTMENT,
Washington, June 25, 1956.

Hon. WALTER F. GEORGE,
Chairman, Committee on Foreign Relations,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: There has been referred to the Department your letter of June 16, 1956, addressed to Mr. Anslinger, requesting views and comments on Senate Resolution 289.

Senate Resolution 289 is a resolution requesting the President to commence negotiations with the Mexican Government for the purpose of concluding a treaty which would include a means of prohibiting boundary crossings by users of illicit narcotic drugs, users of marihuana, drug addicts, and convicted narcotic law violators of both nations. The treaty should also provide for the exchange of specialized personnel and the development of a closer liaison between the two nations in the control of the narcotic and marihuana traffic.

There is an extensive traffic in narcotic drugs and marihuana between Mexico and the United States. Although there is presently cooperative effort to diminish this traffic it is believed that much benefit could be derived from an effective treaty arrangement. However, there may be foreign policy considerations which should be studied before action is taken on this resolution and in these matters, this Department defers to the views of the Department of State.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

DAVID W. KENDALL,
Acting Secretary of the Treasury.

LETTERS CONCERNING SENATE RESOLUTION 290

DEPARTMENT OF STATE,
Washington, June 25, 1956.

Hon. WALTER F. GEORGE,
Chairman, Committee on Foreign Relations,
United States Senate.

DEAR SENATOR GEORGE: Reference is made to your letter of June 15, 1956, requesting the views of the Department on a proposed Senate resolution (S. Res. 290), urging certain countries to ratify or

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accede to the Protocol of 1953 for Limiting and Regulating the Cultivation of the Poppy Plant, the Production Of, International and Wholesale Trade In, and Use, of Opium.

With respect to the first part of the resolution, you will be interested to know that the Commission at its 11th session recommended for adoption by the forthcoming session of the Economic and Social Council a resolution along the lines called for by the proposed Senate resolution. If certain minor changes which the United States delegation to the Economic and Social Council will propose are accepted, the resolution will read as follows:

"*The Economic and Social Council,*

a. *Considering* the magnitude of the illicit traffic in narcotic drugs,

b. *Recalling* that the considerable production of opium has long been regarded as one of the principal causes of this traffic,

c. *Considering* that the application of the provisions of the Protocol signed at New York on 23 June 1953 would constitute an important step forward in limiting the production and use of opium to medical and scientific purposes,

1. *Invites* those States which have not already ratified this Protocol to do so immediately so that it will enter into force as quickly as possible.

2. *Invites* those States which may accede under Article 18 of the 1953 Protocol and have not done so to do so immediately."

If, anticipated, the Economic and Social Council approves this resolution, there would appear to be no need for the first part of the proposed Senate resolution.

With respect to the second part, the Department of State is in sympathy with its objective. Both the Department and the Bureau of Narcotics of the Treasury Department are eager to make progress on the drafting of the single convention. It is anticipated that substantial work will be done on the convention within the course of the coming year. You may, however, wish to solicit the views of the United States Commissioner of Narcotics, Harry J. Anslinger, on the desirability of urging countries to reach a decision at the present time on several outstanding issues regarding which there is still substantial difference of opinion. It is the understanding of the Department that Mr. Anslinger believes that it is premature to attempt to resolve these differences in the immediate future.

If you should like additional information on any of the points raised by the proposed Senate resolution, the Department will be glad to assist you.

Sincerely yours,

ROBERT C. HILL,
Assistant Secretary
(*For the Secretary of State*).

TREASURY DEPARTMENT,
Washington, June 25, 1956.

Hon. WALTER F. GEORGE,
Chairman, Committee on Foreign Relations,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: There has been referred to the Department your letter of June 16, 1956, addressed to Mr. Anslinger, requesting views and comments on Senate Resolution 290.

Senate Resolution 290 is a resolution requesting the United Nations to urge all countries which have not yet ratified or acceded to the Protocol of 1953, particularly certain producing countries, to do so at the earliest possible moment. It also urges the Commission on Narcotic Drugs of the United Nations and the governments of countries represented on the Commission to expedite the preparation of the final draft of a single convention incorporating and improving the various existing conventions dealing with narcotic drugs.

The Department strongly favors the Protocol of 1953, limiting the cultivation of the poppy plant and the production of opium, which was approved by the Senate on August 20, 1954. The single convention which has been under study and preparation by the Commission on Narcotic Drugs for a number of years would be most beneficial in the international control of the abusive use of narcotic drugs. However, it is understood that the Department of State has objections to the resolution because of foreign policy considerations. This Department defers to the views of the Department of State in these matters.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

DAVID W. KENDALL,
Acting Secretary of the Treasury.

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Calendar No. 2522

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2485

WAIVER OF THE REQUIREMENTS OF SECTION 142, TITLE 28, UNITED STATES CODE, FOR THE HOLDING OF COURT AT BRYSON CITY, N. C.

JULY 9, 1956.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 9137]

The Committee on the Judiciary, to which was referred the bill (H. R. 9137) to waive section 142, of title 28, United States Code, with respect to the United States District Court for the Western District of North Carolina holding court at Bryson City, N. C., having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to waive the provisions of section 142, title 28, of the United States Code insofar as it pertains to the holding of court by the United States District Court for the Western District of North Carolina at Bryson City, N. C.

STATEMENT

A similar bill (S. 3178) was introduced in the Senate by Senator Ervin of North Carolina, and the provisions of this legislation are in accordance with previous actions of the Congress in similar cases where local facilities to meet the statutory requirements are not available and where the burden would be too great for the taxpayers in that particular area to provide such facilities.

The facts in connection with this proposal are fully set forth in House Report No. 2249 to accompany H. R. 9137 and are as follows:

> Section 113 (c) of title 28 of the United States Code authorizes the United States District Court for the Western District of North Carolina to hold court at Asheville, Bryson

City, Charlotte, Shelby, and Statesville. The holding of court at Bryson City was authorized by the act of April 25, 1928, chapter 432, 45 Statute 457. Under that authorization, provision was made that local State facilities would be provided. That condition has existed up to the present time. However, it appears that the facilities of the State court will no longer be available and there are presently no facilities in the Federal building at Bryson City.

The terms of the court at Bryson City are held on the fourth Mondays in May and October. While no separate civil docket is maintained at Bryson City, there is a criminal docket. At the same time, civil trials are handled at Bryson City. Over the past 5 years criminal cases annually have varied from 20 to 63.

Section 142 of title 28 of the United States Code provides that court shall be held only at places where Federal quarters and accommodations are available, or suitable quarters and accommodations are furnished without cost to the United States.

The Committee on the Judiciary has been informed that the General Services Administration is in the process of letting the contracts on the first post office-courthouse combination building to be built under the provisions of Public Law 519 of the 83d Congress. Thus the underlying reason for this bill is to waive the provisions of section 142 of title 28 of the United States Code so that plans for a new post-office building at Bryson City may include suitable accommodations and facilities for the Federal district court. The proposed building will serve a 7-county region with a population of some 114,000 people.

The Judicial Council of the Fourth Circuit, wherein Bryson City is located, has expressed its approval of the bill.

The committee concurs in the favorable action of the House of Representatives and the recommendation of the Administrative Office of the United States Courts and, therefore, recommends the bill, H. R. 9137, to the favorable consideration of the Senate.

Attached hereto and made a part hereof is the above-referred-to report of the Administrative Office of the United States Courts, together with the report of the Department of Justice submitted in connection with this bill.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS,
Washington, D. C., February 20, 1956.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR CONGRESSMAN CELLER: The bill about which you inquired of me on February 15, 1956 (H. R. 9137), would waive the requirement of section 142 of title 28 of the United States Code that "court shall be held only at places where Federal quarters and accommodations are available, or suitable quarters and accommodations are furnished without cost to the United States" in reference to the holding of the District Court for the Western District of North Carolina at Bryson City in that State.

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Section 113 (c) of title 28 of the United States Code provides that court for that district shall be held at Asheville, Bryson City, Charlotte, Shelby, and Statesville. There are presently no facilities for the court in the Federal building at Bryson City and the State court is not in a position to provide for the needs of the Federal court. The amendment of section 142 of title 28 provided for by the pending bill if enacted will indicate an intent of the Congress that facilities for the court shall be included in a new Federal building, which I understand is under consideration for Bryson City.

In accordance with a standing direction from the Judicial Conference of the United States to consult the judicial council of the circuit about local matters of this nature, I am requesting the advice of the Judicial Council for the Fourth Circuit through its chairman, Chief Judge Parker. After I am informed of the advice of the judicial council I will write you further about the bill.

With kind regards, I am,

Sincerely yours,

HENRY P. CHANDLER.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS,
Washington, D. C., March 8, 1956.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR CONGRESSMAN CELLER: Supplementing my letter to you of February 20, 1956, in reference to a bill which would waive the requirement of section 142 of title 28 of the United States Code that "court shall be held only at places where Federal quarters and accommodations are available, or suitable quarters and accommodations are furnished without cost to the United States" in reference to the holding of the District Court for the Western District of North Carolina at Bryson City in that State (H. R. 9137), I would say that the Judicial Council of the Fourth Circuit, consisting of the judges of the Court of Appeals for that circuit acting in an administrative capacity under section 332 of title 28 of the United States Code, has by order expressed its approval of the bill mentioned and of waiving the requirement of section 142 of title 28 of the United States Code with respect to the holding of court by the United States District Court for the Western District of North Carolina in Bryson City, N. C.

With kind regards, I am,

Sincerely yours,

HENRY P. CHANDLER.

MARCH 16, 1956.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H. R. 9137) to waive section 142, of title 28, United States Code, with respect to the United States District Court for the Western District of North Carolina holding court at Bryson City, N. C.

Section 142 of title 28 United States Code provides that "court shall be held only at places where Federal quarters and accommodations are available, or suitable quarters and accommodations are furnished without cost to the United States."

The bill would provide that the limitations and restrictions contained in section 142 shall be waived insofar as pertains to holding court in Bryson City, N. C.

The Department of Justice is not aware of any reason why Bryson City should be excepted from the operation of section 142. It is assumed, however, that the committee will obtain the views of the Administrative Office of the United States Courts concerning the proposal.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 28 UNITED STATES CODE, SEC. 142

§ 142. Accommodations at places for holding court

Court shall be held only at places where Federal quarters and accommodations are available, or suitable quarters and accommodations are furnished without cost to the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 898.)

* * * * * * *

The limitations and restrictions contained in section 142, title 28, of the United States Code, shall be waived insofar as pertains to holding court by the United States District Court for the Western District of North Carolina at Bryson City, North Carolina.

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